

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 104 OF 2005

SHRI NILCONTA G.AMONKAR,CURCHOREM Applicants
GOA

Versus

SHRI RAMESH M.BANDODKAR AND 8 Respondents
ORS.,

Shri Nitin Sardessai, Advocate for the Applicant.

Shri N.k. Sawaikar, Advocate for R.1 To R.5, R.7 And R.8

Coram:- N. A. BRITTO, J.

Date:- 17th August, 2005

P.C.:

Heard Shri Sardessai, learned counsel of the applicant/complainant in C.C. No. 61/S/1994/A pending before the learned J.M.F.C., Quepem and learned Advocate Shri Sawaikar on behalf of the respondents who are the accused in the said Criminal Case. It appears that in respect of the same incident and the same subject matter there was a Civil Suit filed by the said complainant which has been decided against the said complainant/plaintiff by the learned Civil Judge S.D., who is also trying the said Criminal Case. The apprehension of the complainant is that the learned J.M.F.C. having decided the said Civil Suit is bound to be influenced by the findings rendered by him, and, with the said apprehension the said complainant had approached the learned Sessions Judge, Margao with a request to transfer the said Criminal Case, which request has been turned down by the learned Sessions Judge by his Order dated 27.4.05 observing that the reason assigned by the complainant that the same Judge had earlier disposed of a Civil Suit, could be no ground to transfer the Criminal Case. At the hearing of this application, it was brought to my notice that at present there is only one J.M.F.C. at Quepem

and the next closest J.M.F.C. available would be at Margao.

Considering the apprehension put forward by the applicant/complainant for the transfer of the criminal case, it could not be said that the same is without any basis. In matters of transfer what counts is the reasonable apprehension of a litigant that he may not get justice. In view of that, in my view this could be a fit case to order the transfer of the said criminal case to the Court of Chief Judicial Magistrate, Margao, who would be at liberty to allot the said case to any of the Judicial Magistrates at Margao. The Chief Judicial Magistrate or any other Judicial Magistrate to whom the case is allotted, is hereby directed to dispose of the same as expeditiously as possibly and within a period of six months from the date of receipt of the records and proceedings of the said case.

With the above observations, application is disposed of.

N. A. BRITTO, J.